

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

KERMIT LOTTIE,

Defendant.

Case No. CR-00-45-D

ORDER

Before the Court is the Motion to Unseal or, Alternatively, for Limited Disclosure of Sealed Document [Doc. No. 286] filed by a nonparty, Julius Darius Jones. In accordance with the Order of August 19, 2021 [Doc. No. 287], the government has filed a public Response [Doc. No. 288] and has submitted a proposed protective order for consideration by the Court. The government represents that the Sealed Document [Doc. No. 173] is a motion for downward departure under U.S.S.G. § 5K1.1 that was filed in connection with the sentencing of Defendant Kermit Lottie by the Honorable Ralph G. Thompson in March 2002. The government asserts that this type of filing is not one to which the presumption of public access to judicial records applies. Alternatively, the government asserts that any presumption is outweighed by a stronger public interest in keeping private the nature and extent of an individual's cooperation in a criminal case and, specifically in this case, in protecting from public scrutiny the details of Kermit Lottie's cooperation.

Upon consideration of the Motion, the Response, and the Sealed Document, the Court finds that the government has satisfied its burden to articulate a substantial interest

that heavily outweighs any public interest in access to the document. *See United States v. Bacon*, 950 F.3d 1286, 1293 (10th Cir. 2020). For the reasons fully set forth in the Response, the Court finds that the government has identified sufficient countervailing reasons to justify the continued secrecy of its substantial assistance motion regarding Mr. Lottie, even though some information about his cooperation has been disclosed in other proceedings. Under the circumstances presented, the Court finds that only an additional limited disclosure of the Sealed Document should be made, subject to an appropriate protective order.

IT IS THEREFORE ORDERED that Julius Darius Jones' Motion to Unseal or, Alternatively, for Limited Disclosure of Sealed Document [Doc. No. 286] is **GRANTED IN PART**, as set forth herein. Current counsel for Mr. Jones with access to the Sealed Document [Doc. No. 173] are authorized to disclose it to members of the Oklahoma Pardon and Parole Board and attorneys employed by the Oklahoma County District Attorney who are participating in proceedings regarding Mr. Jones' application for commutation of his death sentence. All persons granted access to the Sealed Document shall be bound by the Protective Order entered contemporaneously herewith, a copy of which shall be provided to them by Mr. Jones' attorneys.

IT IS SO ORDERED this 26th day of August, 2021.



TIMOTHY D. DeGIUSTI
Chief United States District Judge